


Memorandum

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To: DEPUTY DISTRICT DIRECTORS FOR
ENVIRONMENTAL

Date: December 15, 2003

File: EMO

From: DENISE O'CONNOR 
Chief
Environmental Management Office
Division of Environmental Analysis

Subject: California Environmental Legislation – 2003-2004 Session

October 12, 2003 marked the last day for then-Governor Gray Davis to sign into law bills from the first half of the 2003-2004 legislative session. Several of the over 400 bills signed by the Governor have the potential to affect the Division's work. Attached to this memo is a summary of the newly chaptered bills with web addresses where additional information can be found.

Bills not signed into law this year will remain in legislative session and may become law during 2004. Three of these bills are of particular interest to the Division:

- Senate Bill 18 - amends CEQA to expand protection of traditional cultural sites
- Assembly Bill 406 - prohibits project applicant or a consultant hired by the applicant from preparing and submitting an environmental document
- Senate Bill 532 - addresses cumulative impacts requirements in EIRs

If you have any questions regarding this memorandum or its attachment, please contact Kelly Dunlap at (916) 651-8164, or me at (916) 653-5157.

Attachment

Summary of New Environmental Legislation 2003

GENERAL ENVIRONMENTAL

Assembly Bill 1545: E-Mail Comments

Amends: Sections 21091 and 21092.2 of the Public Resources Code (CEQA)

Effect on the Department: This bill requires the Department to accept comments on environmental documents and specified notices via e-mail and treat e-mail comments the same as written comments.

Bill Text: http://www.leginfo.ca.gov/pub/bill/asm/ab_1501-1550/ab_1545_bill_20031009_chaptered.html

BIOLOGY

Senate Bill 418: Streambed Alteration Agreements

Amends: Section 1600 et seq. of the Fish and Game Code

Effect on the Department: This bill revises the Streambed Alteration Agreement process in numerous ways. Of particular interest for the Department, the bill:

1. Extends the timeline for Streambed Alteration Agreements (Section 1601 permits) to 60 working days from 30 calendar days
2. Creates a graduated schedule of fees that tops out at \$5,000
3. Increases to up to 5 years the period of time that agreements may be extended
4. Holds permittees responsible for implementing mitigation or other measures even after the streambed alteration has expired
5. Requires more detailed information for application, including construction plans and drawings and environmental documentation
 - i. As the Department does not normally draft "plans" for maintenance activities, we will need to work closely with the Department of Fish and Game (DFG) to ensure that the information provide for maintenance operations is acceptable.

Bill Text: http://www.leginfo.ca.gov/pub/bill/sen/sb_0401-0450/sb_418_bill_20031009_chaptered.html

Senate Bill 412: Fully Protected Species

Amends: Sections 3511, 4700, 5050, and 5515 of the Fish and Game Code

Effect on the Department: This bill amends portions of the Fish and Game Code relating to fully protected species. It authorizes DFG to permit the taking of these species for necessary scientific research, including efforts to recover those species. This may allow the Department's biologist after obtaining DFG approval to obtain scientific collecting permits to survey for these species as part of the assessment of a project.

Bill Text: http://www.leginfo.ca.gov/pub/bill/sen/sb_0401-0450/sb_412_bill_20031009_chaptered.html

Summary of New Environmental Legislation 2003

WATER QUALITY

Senate Bill 1004: Water Quality—Discharges

Amends: Sections 13271 and 13304, and to add Chapter 8.5 (commencing with Section 13610) of the Water Code

Effect on the Department:

This bill requires current and past users of perchlorate to disclose any history of leaks that may threaten water supplies to the State Water Resources Control Board and the Regional Water Quality Control Boards. Perchlorate is a primary component of rocket fuel and is commonly used in road flares. Research is being conducted into the amount of perchlorate left behind when a flare is burned. If the level of the perchlorate release is high enough, then the Department would have to disclose the release. The disclosure must include the volume of perchlorate discharged or disposed of, the method of disposal, and history of releases of perchlorate to the environment. The bill would also levy a fee on perchlorate for the purpose of publishing information and administering this act.

Bill Text: http://www.leginfo.ca.gov/pub/bill/sen/sb_1001-1050/sb_1004_bill_20030929_chaptered.html

Senate Bill 923: Water Quality—Waivers

Amends: Section 13269 of the Water Code

Effect on the Department: The amendments to this code section now allow the State Water Resources Board to issue waivers; previously only Regional Water Quality Control Boards could issue waivers. The bill also enables the state board or regional boards to impose an annual fee as a condition of approving the waiver. Lastly, the bill states that monitoring shall be a condition of any waivers granted under this code section. Most Department projects will be covered by the general construction National Pollution Discharge Elimination System (NPDES) permit and the Department's NPDES permit so waivers should be relatively rare.

Bill Text: http://www.leginfo.ca.gov/pub/bill/sen/sb_0901-0950/sb_923_bill_20031011_chaptered.html

Assembly Bill 897: Waste Discharge

Amends: Sections 13264, 13268, 13321, 13350, 13372, 13383, 13385, and 13387 of the Water Code.

Effect on the Department: This bill creates new civil and criminal penalties for waste discharges that are violation of the requirements of water quality certifications issued pursuant to the federal Clean Water Act. Among the new provisions is a mandatory fine of up to \$25,000 for failing or refusing to furnish technical or monitoring reports. The bill also expands when a person is subject to civil liability. Previously, a person was subject to civil liability only if he/she caused or permitted any hazardous substance to be discharged in any of the waters of the state *where it creates a condition of pollution or nuisance*. This bill would extend that civil liability to a person who causes or permits any hazardous substance to be discharged in any of the waters of the state.

Bill Text: http://www.leginfo.ca.gov/pub/bill/asm/ab_0851-0900/ab_897_bill_20031009_chaptered.html

Summary of New Environmental Legislation 2003

Assembly Bill 1248: Public Comment on Waste Discharge

Adds: Section 13167.5 to the Water Code

Effect on Department: This bill may extend the time it takes for the Department to secure waste discharge requirements and other related requirements by mandating that the state board or the regional board, as appropriate, provide notice and a period of at least 30 days for public comment prior to adopting waste discharge requirements, water reclamation requirements, or those related orders.

Bill Text: http://www.leginfo.ca.gov/pub/bill/asm/ab_1201-1250/ab_1248_bill_20031009_chaptered.html

Assembly Bill 1541: Waste Discharge Penalties

Adds: Section 13385.1 to the Water Code

Effect on Department: This new section would levy a \$3,000 fine for each 30-day period that the Department fails to provide discharge-monitoring reports for serious violations as required.

Text: http://www.leginfo.ca.gov/pub/bill/asm/ab_1501-1550/ab_1541_bill_20030929_chaptered.html

HAZARDOUS WASTE

Assembly Bill 1702: Underground Storage Tanks

Amends and Adds: Amend Section 15399.15 of the Government Code, and to amend Sections 25150.1, 25281, 25288, 25290.1, 25292, 25292.5, 25293, 25295, 25295.5, 25298, 25299, 25299.4, and 33459 of, and to add Sections 25280.6 and 25290.2 to, the Health and Safety code

Effect on Department: This bill revises the definition of "unauthorized release" to delete the exclusion for releases authorized by the State Board or regional board. Postpones until July 1, 2004 new requirements for constant vacuum or pressure tanks.

Bill Text: http://www.leginfo.ca.gov/pub/bill/asm/ab_1701-1750/ab_1702_bill_20030707_chaptered.html